

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

SCOMA CHIROPRACTIC, P.A., a Florida
corporation, individually and as the
representative of a class of similarly situated
persons,

Plaintiff,

v.

Case No. 2:20-cv-00430-JLB-MRM

NATIONAL SPINE AND PAIN CENTERS
LLC, a Delaware limited liability company,
SPINE CENTER OF FLORIDA, LLC, and
PAIN MANAGEMENT CONSULTANTS OF
SOUTHWEST FLORIDA, P.L., Florida
limited liability companies,

Defendants.

ORDER

On December 8, 2020, Defendants filed a notice under Federal Rule of Civil Procedure 5.1(a), notifying the Attorney General of the United States that their motion to dismiss contains a First-Amendment challenge to the junk-fax provision of the Telephone Consumer Protection Act. (Docs. 21–22); 47 U.S.C. § 227(b)(1)(C). Defendants averred that the notice would be served on the Attorney General concurrently with the notice’s filing.

Rule 5.1(b) states that the Court “must . . . certify to the appropriate attorney general that a statute has been questioned.” The deadline for the Attorney General to intervene is sixty days after the notice under Rule 5.1(a) or the certification under 5.1(b), whichever is earlier. Fed. R. Civ. P. 5.1(c). The Attorney General has

already appeared and received an extension of time to decide whether they want to intervene. (Docs. 33, 42.)

28 U.S.C. § 2403 CERTIFICATION

Pursuant to the certification requirements set forth in 28 U.S.C. § 2403 and Federal Rule of Civil Procedure 5.1(b), the Court hereby certifies to the Attorney General of the United States, William P. Barr, that the constitutionality of a provision of a federal statute has been challenged. Therefore, it is **ORDERED**:

1. Pursuant to 28 U.S.C. § 2403 and Federal Rule of Civil Procedure 5.1(c), the Attorney General may intervene for the presentation of evidence and for argument on the question of constitutionality **no later than January 8, 2021**, which is the extended deadline previously set by the Court. (Doc. 42.)
3. The Clerk is **DIRECTED** to provide a copy of this Order, along with Defendants' notice (Doc. 21), to:

Mr. William P. Barr
Attorney General of the United States
ATTN: Certification of Constitutional Challenge
U.S. Department of Justice, Room 4400
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

ORDERED in Fort Myers, Florida, on December 4, 2020.



JOHN L. BADALAMENTI
UNITED STATES DISTRICT JUDGE